

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH MARZULLO,

Plaintiff,

- against -

621 EVENTS, LLC

Defendant.

Docket No. 1:18-cv-6352

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Joseph Marzullo (“Joseph” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant 621 Events, LLC (“621” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photographs of an event held at the Hudson Terrace for the Tony Awards, owned and registered by Joseph, a New York based professional photographer. Accordingly, Joseph seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Joseph is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 788 Amsterdam Avenue, Apt. 2S, New York, NY 10025.

6. Upon information and belief, 621 is a foreign business corporation duly organized and existing under the laws of the State of New York, with a place of business at 150 W 28th Street #403, New York, NY 10001. Upon information and belief 621 is registered with the NYS Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, 621 has owned and operated a website at the URL: www.hudsonterracenyc.com/ (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Joseph photographed the cocktail party at the Hudson Terrace for the Tony Awards (the “Photographs”). A true and correct copy of the Photographs are attached hereto as Exhibits A1 – A4.

8. Joseph then licensed the Photographs to Playbill. On May 21, 2015 Playbill ran an article that featured the Photographs entitled “Photo Call: 2015 Tony Awards Creative Arts Cocktail Party A Special American Theater Wing cocktail party entitled “Designed To Celebrate: A Toast to the 2015 tony Award Creative Arts Nominees” was held on May 20 at Hudson Terrace” See URL <http://www.playbill.com/article/photo-call-2015-tony-awards-creative-arts-cocktail-party-com-349606>. Joseph’s name was featured in a gutter credit

identifying him as the photographer of the Photograph. A true and correct copy of the article is attached hereto as Exhibits B1 – B4.

9. Joseph is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-023-585. See Exhibit C

B. Defendant's Infringing Activities

11. 621 ran an article on the Website entitled *2015 Tony Awards Creative Arts Cocktail Party*. See URL <http://hudsonterracenyc.com/2015-tony-awards-creative-arts-cocktail-party/nggallery/>. The article prominently featured the Photographs. A true and correct copy of the article is attached hereto as Exhibits D1 - D4.

12. 621 did not license the Photographs from Plaintiff for its article, nor did 621 have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST 621)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. 621 infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. 621 is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant 621 be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 13, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz

Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Joseph Marzullo